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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,178	10/21/2005	Alan Timothy Gibbs	30451/04014	7862
24024	7590	09/19/2008	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114				VENNE, DANIEL V
ART UNIT		PAPER NUMBER		
3617				
MAIL DATE		DELIVERY MODE		
09/19/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/554,178	GIBBS, ALAN TIMOTHY	
	<b>Examiner</b>	<b>Art Unit</b>	
	DANIEL V. VENNE	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 September 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2,4-9,11 and 12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2,4-9,11 and 12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 21 October 2005 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. An amendment was received from applicant on 9/9/2005.
2. Claims 3 and 10 are canceled.
3. Claims 11 and 12 are new.

***Specification***

4. The amendment filed 9/9/2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: New claim 12 indicates that the steering of the retractable wheels and the marine propulsion unit steering are arranged to be operated simultaneously independent of retracting the retractable wheels. In as much as this limitation cannot be found in the original specification filed 10/21/2005 or in the published application of 10/5/2006, it is considered new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: New claim 12 indicates that the steering of the retractable wheels and the marine propulsion unit steering are arranged to be operated simultaneously independent of retracting the retractable wheels. In as much as this limitation cannot be found in the original specification filed 10/21/2005 or in the published application of 10/5/2006, the specification is considered to lack proper antecedent basis for the claimed subject matter.

6. The disclosure is objected to because of the following informalities:

In paragraph [0004] of the published specification, the word 'centering' is misspelled. The specification has not been reviewed for all possible errors and the applicant is advised to review and correct all errors. Appropriate correction is required.

7. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. New claim 12 indicates that the steering of the retractable wheels and the marine propulsion unit steering are arranged to be operated simultaneously independent of retracting the retractable wheels. In as much as this limitation cannot be found in the original specification filed 10/21/2005 or in the published application of 10/5/2006, the claim limitation is considered not adequately described or supported in the specification.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. Regarding claim 11, it is not entirely clear what is meant by or how power assistance to the steering of the wheels matches the power assistance required to overcome the self centering tendency of the marine propulsion unit when running at high speed. This limitation is mentioned only once in paragraph [0004] of the published specification and is not adequately or clearly explained or described in the disclosure.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1, 2 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gere et al. (US 5590617), in view of Caserta et al (US 5727494). Gere et al. discloses a planing hull [16], marine propulsion unit [54], powered assisted transversely mounted steering element having a rack (rack and pinion steering system) [150] with actuating rod [152] mounted to a rack arm of a rack of the steering element and arranged for transverse movement, flexible coupling means (push-pull cable) [176] connecting the actuating rod to a steerable part of a marine propulsion unit, and wheel links arranged to fold upwards on retracting the wheels, as generally recited (see Figs. 1-3, 6, 7-9, and 11-13). Gere et al. (in col. 12, lines 30-35 and Fig. 13) indicates that the cable [176] is mounted to the rack and pinion steering unit [152] and the marine drive steering gate [177] such that when the rack and pinion unit [152] moves in a side to side direction, the steering cable manipulates the steering gate to control the direction of thrust. Although Gere et al. does not explicitly disclose that the actuating rod is mounted to a rack arm of a steering rack, the indicated side to side movement of the rack and pinion unit implies that the actuating rod for all practical purposes is mounted to a rack arm of the steering rack, since any structure to which the actuating rod is mounted at the rack and pinion steering unit for effective side to side movement can be

considered a rack arm of a steering element rack within a rack and pinion steering system. Moreover, applicant has not sufficiently shown how mounting an actuating rod to a specific rack arm is advantageous over mounting of an actuator rod in other rack and pinion steering systems known in the art. Gere et al. does not explicitly disclose that the push-pull cable is coupled to the actuating rod through a bell crank means and the actuating rod connects the bell crank means to the steering element. However, bell cranks are known in the art and any means used to couple the push-pull cable to the actuating rod and further to the steering element via the actuating rod is considered substantially equivalent to a bell crank means, since applicant has not sufficiently shown how a bell crank is an essential or critical mounting feature to any suitable coupling means known in the art. Gere et al. does not explicitly disclose that the steering of the wheels and the marine propulsion unit steering are arranged to be operated simultaneously, although it appears from the disclosure that road and marine steering are capable of being operated simultaneously, at least during road use. However, Caserta et al. discloses an amphibious vehicle with wheels and marine propulsion unit steering arranged to be operated simultaneously, as claimed (See Fig. 9 and col. 2, lines 19-23). Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide simultaneous wheel and marine propulsion unit steering with Gere et al. as disclosed by Caserta et al. to create the invention as claimed by applicant. The motivation would have been to improve upon the steering capability for the watercraft, especially during transition from marine mode to land mode of operation.

15. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gere et al. (US 5590617), in view of Caserta et al. (US 5727494) with respect to claim 1, and further in view of Bufler Ernst (DE 3820967 A1). Gere et al. in view of Caserta et al. discloses all of the claimed features as indicated above, with the exception of being fitted with more than one steered axle, as claimed. Bufler Ernst (cited by applicant) shows more than one steered axle with steering provided in part by cable means [9]. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide an additional steerable means for the wheels on the secondary axle as taught by Bufler Ernst by modifying the cable connections and mechanisms of Gere et al. to include steering capability for the additional axle. The motivation would have been to provide a more versatile and maneuverable vehicle for land operation.

16. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gere et al. (US 5590617), in view of Caserta et al. (US 5727494) with respect to claim 1. Gere et al. in view of Caserta et al. discloses all of the claimed features as indicated above, with the exception of being fitted with more than one steered marine propulsion unit. Providing more than one marine propulsion unit is considered a design choice depending on power needs and performance desired for use for marine operation. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide an additional marine propulsion unit with Gere et al. as a design choice. The motivation

would have been to provide a more versatile, maneuverable and powerful vehicle for water operation.

***Response to Arguments***

17. Applicant's arguments filed 1/31/2008 have been fully considered but they are not persuasive. Applicant argues that the prior art does not disclose, teach or suggest a desirability of making the claimed invention and how the claimed invention may be made. Desirability or details on how to make the invention is not necessary to support an obvious rejection based on prior art. Ordinary skill in that art is all that is necessary.

As indicated above, it would be obvious to one of ordinary skill in the art to combine the disclosure of Caserta et al. for simultaneous steering operation of wheels and marine propulsion with Gere et al. to create the invention as claimed by applicant. The examiner considers it feasible that one of ordinary skill in the art could create the invention as claimed based on the disclosure of the prior art references cited above.

Regarding new claims 11 and 12, see the new rejections presented above.

***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel V. Venne whose telephone number is (571) 272-7947. The examiner can normally be reached between 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (In USA or CANADA) or 571-272-1000.

DVV

/Lars A Olson/  
Primary Examiner, Art Unit 3617